

AMENDED IN ASSEMBLY JUNE 20, 2002

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 2022

Introduced by Senator Figueroa

February 22, 2002

An act to amend Sections 1741, 1760, 2709.5, and 2851 of, to amend and renumber Sections 1758, 1766, 1768, and 1770 of, to amend, renumber, and add Sections 1761, 1762, 1763, 1764, and 1765 of, to add Section 1760.5 to, to repeal Section 1759 of, and to repeal and add Sections 1767 of, the Business and Professions Code, relating to ~~nursing~~ healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 2022, as amended, Figueroa. ~~Nursing~~ Healing arts.

(1) Existing law provides for the regulation of dental auxiliaries by the Committee on Dental Auxiliaries, under the jurisdiction of the Dental Board of California. Existing law authorizes a registered dental hygienist to perform certain functions, as prescribed by the board by regulations.

This bill would define the practice of dental hygiene. The bill would delete the authorization that the board determine authorized functions for dental hygienists and would instead set forth procedures that a properly trained dental hygienist is authorized to perform under direct supervision and procedures that he or she is authorized to perform under general supervision. The bill would authorize a dental hygienist to provide educational services, oral health training programs, and oral health screenings without supervision, but would require that a patient with possible oral abnormalities be referred to a dentist. The bill would

also authorize a dental hygienist to provide dental hygiene preventative services without supervision in a public health program. The bill would require the board to adopt regulations necessary to define the functions that may be performed, the supervisory requirements, and the settings in which a registered dental hygienist may work.

This bill would authorize a dental hygienist to use any material or device approved for use in the performance of a service or procedure within his or her scope of practice and would authorize the committee or a successor entity to enact regulations setting forth requirements for the materials or devices and educational requirements that a dental hygienist must meet prior to using the materials or devices.

Existing law requires the board to license as a registered dental hygienist in alternative practice a person who passes an examination required by the board and meets certain other requirements.

The bill would require the board, in consultation with the committee, to adopt regulations necessary to implement these licensing requirements.

This bill would prohibit a person other than a licensed dental hygienist or a licensed dentist from engaging in the practice of dental hygiene or the performance of dental hygiene patient procedures, and would set forth certain exceptions to this prohibition. The bill would require the board to adopt regulations necessary to implement the provisions of law relating to dental auxiliaries.

This bill would make nonsubstantive changes to the provisions regulating dental auxiliaries.

(2) Existing law, the Nursing Practice Act, provides for the licensure of registered nurses by the Board of Registered Nurses. Existing law provides that any fees required by the board may be paid by customary mediums of exchange, including a postal money order.

This bill would delete the specification that a money order be a postal money order.

~~(2)~~

(3) Existing law, the Vocational Nursing Practice Act, creates the Board of Vocational Nursing and Psychiatric Technicians of the State of California that is composed of 11 members. Under existing law, 5 members of the board constitute a quorum for transaction of business at a meeting.

This bill would instead require 6 members of the board to constitute a quorum.



Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. *Section 1741 of the Business and Professions Code is amended to read:*

1741. As used in this article:

(a) “Board” means the Board of Dental Examiners of the State of California.

(b) “Committee” means the Committee on Dental Auxiliaries.

(c) “Direct supervision” means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) “General supervision” means supervision of dental procedures based on instructions given by a licensed dentist but not requiring the physical presence of the supervising dentist during the performance of those procedures.

(e) “Dental auxiliary” means a person who may perform dental assisting or dental hygiene procedures authorized by this article. Dental auxiliary also means a registered dental hygienist in alternative practice, who may provide authorized services by prescription provided by a dentist or physician and surgeon licensed to practice in this state. “Dental auxiliary” includes all of the following:

(1) A dental assistant pursuant to Section 1750.

(2) A registered dental assistant pursuant to Section 1753.

(3) A registered dental assistant in extended functions pursuant to Section 1756.

(4) A registered dental hygienist pursuant to Section ~~1758~~ 1766.

(5) A registered dental hygienist in extended functions pursuant to Section ~~1761~~ 1768.

(6) A registered dental hygienist in alternative practice pursuant to Section ~~1768~~ 1774.

SEC. 2. *Section 1758 of the Business and Professions Code is amended and renumbered to read:*

~~1758.—~~

1 1766. The board shall license as a registered dental hygienist
2 a person who satisfies all of the following requirements:

3 (a) Completion of an educational program for registered dental
4 hygienists, approved by the board, and accredited by the
5 Commission on Dental Accreditation, and conducted by a
6 degree-granting, post-secondary institution.

7 (b) Satisfactory performance on an examination required by
8 the board.

9 (c) Satisfactory completion of a national written dental hygiene
10 examination approved by the board.

11 *SEC. 3. Section 1759 of the Business and Professions Code is*
12 *repealed.*

13 ~~1759. Within one year of the date this article takes effect, the~~
14 ~~board, upon recommendation of the committee, consistent with~~
15 ~~standards of good dental practice and the health and welfare of~~
16 ~~patients, shall prescribe by regulation the functions which may be~~
17 ~~performed by a registered dental hygienist, whether such functions~~
18 ~~require direct or general supervision, and the settings within which~~
19 ~~registered dental hygienists may work.~~

20 *SEC. 4. Section 1760 of the Business and Professions Code is*
21 *amended to read:*

22 1760. The following functions may be performed by a
23 registered dental hygienist in addition to those authorized pursuant
24 to ~~Section 1759~~ Sections 1760.5, 1761, 1762, 1763, and 1764:

25 (a) All functions ~~which~~ *that* may be performed by a dental
26 assistant or a registered dental assistant, ~~under the degree of~~
27 ~~supervision required for such functions.~~

28 (b) ~~Removal of lime deposits, accretions and stains from the~~
29 ~~unattached surface of the teeth, and application of topical agents~~
30 ~~essential to complete prophylaxis under the general supervision of~~
31 ~~a licensed dentist. All persons holding a license as a registered~~
32 ~~dental hygienist on January 1, 2003, or issued a license on or~~
33 ~~before December 31, 2005, are authorized to perform the duties of~~
34 ~~a registered dental assistant specified in Section 1754. On and~~
35 ~~after January 1, 2006, a person licensed as a registered dental~~
36 ~~hygienist shall qualify for and receive a registered dental assistant~~
37 ~~license prior to performance of the duties specified in Section~~
38 ~~1754.~~

39 *SEC. 5. Section 1760.5 is added to the Business and*
40 *Professions Code, to read:*

1 1760.5. (a) *The practice of dental hygiene includes dental*
2 *hygiene assessment, development, planning, and implementation*
3 *of a dental hygiene care plan. It also includes oral health*
4 *education, oral preventive counseling, and oral health screenings.*

5 (b) *The practice of dental hygiene does not include any of the*
6 *following procedures:*

7 (1) *Diagnosis and comprehensive treatment planning.*

8 (2) *Placing, condensing, carving, or removal of permanent*
9 *restorations.*

10 (3) *Surgery or cutting on hard and soft tissue including, but not*
11 *limited to, the removal of teeth and the cutting and suturing of soft*
12 *tissue.*

13 (4) *Prescribing medication.*

14 (5) *Administering local or general anesthesia or oral or*
15 *parenteral conscious sedation, except for the administration of*
16 *nitrous oxide and oxygen, whether administered alone or in*
17 *combination with each other, or local anesthesia pursuant to*
18 *Section 1761.*

19 SEC. 6. *Section 1761 of the Business and Professions Code is*
20 *amended and renumbered to read:*

21 ~~1761.~~

22 1768. *The board shall license as a registered dental hygienist*
23 *in extended functions a person who meets all of the following*
24 *requirements:*

25 (a) ~~Status as~~ *Holds a valid license issued pursuant to Section*
26 *1766 as a registered dental hygienist.*

27 (b) ~~Completion of~~ *Completes clinical training approved by the*
28 *board in a facility affiliated with a dental school under the direct*
29 *supervision of the dental school faculty.*

30 (c) ~~Satisfactory performance~~ *Performs satisfactorily on an*
31 *examination required by the board.*

32 SEC. 7. *Section 1761 is added to the Business and Professions*
33 *Code, to read:*

34 1761. *A dental hygienist is authorized to perform the*
35 *following procedures under direct supervision, after submitting to*
36 *the board evidence of satisfactory completion of a board-approved*
37 *course of instruction in the procedures:*

38 (a) *Soft-tissue curettage.*

39 (b) *Administration of local anesthesia.*

1 (c) Administration of nitrous oxide and oxygen, whether
2 administered alone or in combination with each other.

3 SEC. 8. Section 1762 of the Business and Professions Code is
4 amended and renumbered to read:

5 ~~1762. Within one year of the date this article takes effect, the~~
6 ~~board, upon recommendation of the committee, consistent with~~
7 ~~standards of good dental practice and the health and welfare of~~
8 ~~patients, shall prescribe by regulation~~

9 1769. The board, in consultation with the committee, shall
10 adopt regulations necessary to define the functions ~~which~~ that may
11 be performed by registered dental hygienists in extended
12 functions, whether ~~such~~ the functions require direct or general
13 supervision, and the settings within which registered dental
14 hygienists in extended functions may work.

15 SEC. 9. Section 1762 is added to the Business and Professions
16 Code, to read:

17 1762. A dental hygienist is authorized to perform the
18 following procedures under general supervision:

19 (a) Preventive and therapeutic interventions, including oral
20 prophylaxis, scaling, and root planing.

21 (b) Application of topical, therapeutic, and subgingival agents
22 used for the control of caries and periodontal disease.

23 (c) The taking of impressions for bleaching trays and
24 application and activation of agents with nonlaser, light-curing
25 devices.

26 (d) The taking of impressions for bleaching trays and
27 placements of in-office, tooth-whitening devices.

28 SEC. 10. Section 1763 of the Business and Professions Code
29 is amended and renumbered to read:

30 ~~1763.—~~

31 1770. A licensed dentist may utilize in his or her practice no
32 more than two dental auxiliaries in extended functions licensed
33 pursuant to Sections 1756 and ~~1761~~ 1768.

34 SEC. 11. Section 1763 is added to the Business and
35 Professions Code, to read:

36 1763. (a) A dental hygienist may provide, without
37 supervision, educational services, oral health training programs,
38 and oral health screenings.

1 (b) A dental hygienist shall refer any screened patients with
2 possible oral abnormalities to a dentist for a comprehensive
3 examination, diagnosis, and treatment plan.

4 (c) In any public health program created by federal, state, or
5 local law or administered by a federal, state, county, or local
6 governmental entity, a dental hygienist may provide, without
7 supervision, dental hygiene preventive services in addition to oral
8 screenings, including, but not limited to, the application of
9 fluorides and pit and fissure sealants.

10 SEC. 12. Section 1764 of the Business and Professions Code
11 is amended and renumbered to read:

12 ~~1764.—~~

13 1771. Any person, other than ~~one~~ a person who has been
14 issued a license by the board, who holds himself or herself out as
15 a registered dental assistant, registered dental assistant in extended
16 functions, registered dental hygienist, registered dental hygienist
17 in extended functions, or registered dental hygienist in alternative
18 practice, or uses any other term indicating or implying he or she
19 is licensed by the board in the aforementioned categories, is guilty
20 of a misdemeanor.

21 SEC. 13. Section 1764 is added to the Business and
22 Professions Code, to read:

23 1764. (a) Any procedure performed or service provided by a
24 dental hygienist that does not specifically require direct
25 supervision shall require general supervision, so long as it does not
26 give rise to a situation in the dentist's office requiring immediate
27 services for alleviation of severe pain, or immediate diagnosis and
28 treatment of unforeseeable dental conditions, which, if not
29 immediately diagnosed and treated, would lead to serious
30 disability or death.

31 (b) Unless otherwise specified in this chapter, a dental
32 hygienist may perform any procedure or provide any service within
33 the scope of his or her practice in any setting, so long as the
34 procedure is performed or the service is provided under the
35 appropriate level of supervision required by this article.

36 (c) A dental hygienist may use any material or device approved
37 for use in the performance of a service or procedure within his or
38 her scope of practice under the appropriate level of supervision,
39 subject to any requirements enacted pursuant to subdivision (d).

(d) *The Committee on Dental Auxiliaries or its successor agency may enact regulations setting forth the following:*

(1) *Requirements for materials or devices that may be used pursuant to subdivision (c).*

(2) *Educational requirements that a dental hygienist shall meet prior to using materials or devices pursuant to subdivision (c).*

(e) *For purposes of this section “successor entity” means any entity created to regulate the practice of dental hygienists or any entity that assumes the duties and powers of the committee with regard to regulating the practice of dental hygienists.*

SEC. 14. *Section 1765 of the Business and Professions Code is amended and renumbered to read:*

~~1765.—~~

1772. *The board shall seek to obtain an injunction against any dental hygienist who provides services in alternative practice pursuant to Sections ~~1768~~ 1774 and ~~1770~~ 1775 if the board has reasonable cause to believe that the services are being provided to any a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.*

SEC. 15. *Section 1765 is added to the Business and Professions Code, to read:*

1765. *No person other than a licensed dental hygienist or a licensed dentist may engage in the practice of dental hygiene or perform dental hygiene procedures on patients, including, but not limited to, supragingival and subgingival scaling, dental hygiene assessment, and treatment planning, except for the following persons:*

(a) *A student enrolled in a dental or a dental hygiene school who is performing procedures as part of the regular curriculum of that program under the supervision of the faculty of that program.*

(b) *A registered dental hygienist acting in accordance with the rules of the board in applying topical agents used for the control of caries or polishing the coronal surfaces of teeth.*

(c) *A registered dental hygienist licensed in another jurisdiction performing a clinical demonstration for educational purposes.*

SEC. 16. *Section 1766 of the Business and Professions Code is amended and renumbered to read:*

~~1766.~~

1 1773. The provisions of Sections 1715, 1718, 1718.1, 1718.2,
2 and 1718.3 shall govern the renewal, restoration, reinstatement,
3 and reissuance of licenses issued under this article.

4 The license shall continue in effect through the date provided in
5 Section 1715 ~~which~~ *that* next occurs after its issuance, when it
6 shall expire if not renewed.

7 SEC. 17. Section 1767 of the Business and Professions Code
8 is repealed.

9 ~~1767. The board shall report to the Legislature by July 1,~~
10 ~~1975, and each six months thereafter for a period of two years, as~~
11 ~~to their progress in implementing this article.~~

12 SEC. 18. Section 1767 is added to the Business and
13 Professions Code, to read:

14 1767. The board, upon recommendation of the committee,
15 shall adopt regulations necessary to implement the provisions of
16 this article.

17 SEC. 19. Section 1768 of the Business and Professions Code
18 is amended and renumbered to read:

19 ~~1768.—~~

20 1774. (a) The board shall license as a registered dental
21 hygienist in alternative practice a person who demonstrates
22 satisfactory performance on an examination required by the board
23 and, subject to Sections ~~1758, 1759, and~~ 1760 and 1766, who
24 meets either of the following requirements ~~which have prepared~~
25 ~~the person to practice dental hygiene in an alternative setting:~~

26 (1) ~~The person holds—~~ *Holds* a current California license as a
27 dental hygienist and meets the following requirements:

28 (A) ~~The person has—~~ *Has* been engaged in clinical practice as a
29 dental hygienist for a minimum of 2,000 hours during the
30 immediately preceding 36 months.

31 (B) ~~The person has—~~ *Has* successfully completed a bachelor's
32 degree or its equivalent from a college or institution of higher
33 education that is accredited by a national agency recognized by the
34 Council on Postsecondary Accreditation or the United States
35 Department of Education, and a minimum of 150 hours of
36 additional educational requirements, as prescribed by the board by
37 regulation, that are consistent with good dental and dental hygiene
38 practice, including, but not necessarily limited to, dental hygiene
39 technique and theory including gerontology and medical

1 emergencies, and business administration and practice
2 management.

3 (2) ~~A person who has~~ *Has* received a letter of acceptance into
4 the employment utilization phase of the Health Manpower Pilot
5 Project No. 155 established by the Office of Statewide Health
6 Planning and Development pursuant to Article 1 (commencing
7 with Section 128125) of Chapter 3 of Part 3 of Division 107 of the
8 Health and Safety Code.

9 (b) ~~By January 1, 1999, the board, upon recommendations of~~
10 ~~the committee that shall be made no later than February 15, 1998,~~
11 ~~consistent with the standards of good dental practice, shall adopt~~
12 ~~regulations in accordance with Section 1748 prescribing all of the~~
13 ~~following:~~

14 (1) ~~The content for the 150 hours of coursework to be~~
15 ~~successfully completed for licensure of a registered dental~~
16 ~~hygienist in alternative practice.~~

17 (2) ~~The functions requiring general supervision that may be~~
18 ~~performed by a registered dental hygienist in alternative practice~~
19 ~~as an employee of a dentist.~~

20 (3) ~~The functions that may be performed independently and~~
21 ~~without the supervision of a dentist by a registered dental hygienist~~
22 ~~in alternative practice shall include, but need not be limited to, root~~
23 ~~planing and oral prophylaxis.~~

24 (4) ~~Services authorized pursuant to paragraphs (2) and (3) may~~
25 ~~be performed by prescription. Subject to the provisions of~~
26 ~~subdivisions (b) and (h) of Section 1775, the board, in consultation~~
27 ~~with the committee, shall adopt regulations in accordance with~~
28 ~~Section 1748 necessary to implement this section.~~

29 (c) The Director of Consumer Affairs shall review the
30 regulations adopted by the board in accordance with Section
31 313.1.

32 (d) ~~If the board does not adopt regulations in accordance with~~
33 ~~subdivision (b), or if the regulations are not approved in~~
34 ~~accordance with Section 313.1, the coursework and duties for~~
35 ~~alternative dental hygiene practice that were established under the~~
36 ~~auspices of the Health Manpower Pilot Project shall govern a~~
37 ~~registered dental hygienist in alternative practice for purposes of~~
38 ~~this section and Section 1770 until 30 days following the date on~~
39 ~~which the board adopts regulations in accordance with subdivision~~
40 ~~(b) and the regulations are adopted in accordance with Section~~

1 ~~313.1, at which time the regulations adopted by the board shall~~
2 ~~take effect. This subdivision shall not apply to either of the~~
3 ~~following, which shall be effective regardless of whether the board~~
4 ~~adopts the regulations:~~

5 ~~(1) The limitation on settings, specified in subdivision (b) of~~
6 ~~Section 1770, in which a registered dental hygienist in alternative~~
7 ~~practice may practice.~~

8 ~~(2) The requirements specified in subdivision (h) of Section~~
9 ~~1770 of an examination, diagnosis, and prescription.~~

10 ~~(e) A person licensed as a registered dental hygienist who has~~
11 ~~completed the prescribed classes through the Health Manpower~~
12 ~~Pilot Project (HMPP) and who has established an independent~~
13 ~~practice under the HMPP by June 30, 1997, shall be deemed to~~
14 ~~have satisfied the licensing requirements under Section 1768~~
15 ~~1774, and shall be authorized to continue to operate the practice~~
16 ~~he or she presently operates, so long as he or she follows the~~
17 ~~requirements for prescription and functions as specified in this~~
18 ~~section and Section 1770 1775, with the exception of subdivision~~
19 ~~(e) of Section 1770 1775, and as long as he or she continues to~~
20 ~~personally practice and operate the practice or until such time that~~
21 ~~he or she sells the practice to a licensed dentist.~~

22 ~~(f) The Health Manpower Pilot Project 155 shall cease to~~
23 ~~operate on the effective date of this section.~~

24 *SEC. 20. Section 1770 of the Business and Professions Code*
25 *is amended and renumbered to read:*

26 ~~1770.—~~

27 *1775.* (a) A registered dental hygienist in alternative practice
28 may practice, pursuant to Section ~~1768~~ 1774, as an employee of
29 a dentist or of another registered dental hygienist in alternative
30 practice, or as an independent contractor, or as a sole proprietor of
31 an alternative dental hygiene practice.

32 (b) A registered dental hygienist in alternative practice may
33 perform the duties authorized pursuant to Section ~~1768~~ 1774 in the
34 following settings:

35 (1) Residences of the homebound.

36 (2) Schools.

37 (3) Residential facilities and other institutions.

38 (4) Dental health professional shortage areas, as certified by the
39 Office of Statewide Health Planning and Development in
40 accordance with existing office guidelines.

1 (c) A registered dental hygienist in alternative practice shall not
2 do any of the following:

3 (1) Infer, purport, advertise, or imply that he or she is in any
4 way able to provide dental services or make any type of dental
5 health diagnosis beyond evaluating a patient's dental hygiene
6 status, providing a dental hygiene treatment plan, and providing
7 the associated dental hygiene services.

8 (2) Hire a registered dental hygienist to provide direct patient
9 services other than a registered dental hygienist in alternative
10 practice.

11 (d) A registered dental hygienist in alternative practice may
12 submit or allow to be submitted any insurance or third-party claims
13 for patient services performed as authorized pursuant to this
14 article.

15 (e) A registered dental hygienist in alternative practice may
16 hire other registered dental hygienists in alternative practice to
17 assist in his or her practice.

18 (f) A registered dental hygienist in alternative practice may hire
19 and supervise dental assistants performing functions specified in
20 subdivision (b) of Section 1751.

21 (g) A registered dental hygienist in alternative practice shall
22 provide to the board documentation of an existing relationship
23 with at least one dentist for referral, consultation, and emergency
24 services.

25 (h) A registered dental hygienist in alternative practice may
26 perform dental hygiene services for a patient who presents to the
27 registered hygienist in alternative practice a written prescription
28 for dental hygiene services issued by a dentist or physician and
29 surgeon licensed to practice in this state who has performed a
30 physical examination and a diagnosis of the patient prior to a
31 prescription being provided. The prescription shall be valid for a
32 time period based on the dentist's or physician and surgeon's
33 professional judgment, but not to exceed 15 months from the date
34 that it was issued.

35 *SEC. 21.* Section 2709.5 of the Business and Professions
36 Code is amended to read:

37 2709.5. The board shall accept in payment of any fee required
38 by this chapter cash or any customary or generally accepted
39 medium of exchange, including check, cashier's check, certified
40 check or money order. For the purposes of this section, customary

1 or generally accepted medium of exchange does not include
2 postage stamps.

3 ~~SEC. 2.~~

4 *SEC. 22.* Section 2851 of the Business and Professions Code
5 is amended to read:

6 2851. Six members of the board constitute a quorum for
7 transaction of business at any meeting.

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